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Congressman Pete Sessions
Meeting - EPA and OSEI Corporation
January 28, 2004

**I. Fourteen (14) unsuccessful years of Trying to Work with the EPA
To Use OSE II On U. S. Navigable Waters.**

1. OSEI Corporation met with the EPA in early 1990. The meeting got us nowhere. We asked - "how long will it take for OSE II to be used on U. S. Navigable Waters? Erick Brethauer, (EPA) said - "not in your lifetime." Little did we realize the truth of his statement.
2. In 1991, EPA signed a Co-operative Agreement with the NETAC Corporation to test Bioremediation Products (approximately 10). OSE II was one of the products chosen to be tested. All Test Data from all of the Products were to be published and sent to the Vendors; however NETAC/EPA never published the results.

The EPA spent millions of public funds running tests on Bioremediation Products which they had no intention of ever permitting their use on U. S. Waters.

All vendors were promised they would all receive all the test data for their product. This never happened.

3. The OSEI Corporation repeatedly asked for our test results that were never sent to us. In 1995 we wrote to the EPA requesting our test data. The EPA said they had none and told us NETAC had the test results. We wrote to NETAC and were told that the EPA had our test data.
4. In October of 1999 - the EPA and RRT Regions III and IV published the Job Aids Book (allegedly to help OSC's On-Scene Commanders); decide which product to use on oil spills.

Just by accident, the Consultant Firm putting the Job Aids Book together called OSEI Corporation and asked us to review our data to approve or update the information.

Here, for the first time - the EPA published OSE II's Test Data they had claimed they never had since 1991 and 1992. We only received this data because the consultant sent it to us.

5. NRT meeting on February 1, 2000, San Antonio - Met Jim Makris - Co Chair of NRT. Gave Makris and CG Capt. copies of our test information. Makris told me in front of the NRT meeting that 11 years was long enough for us not to be pre-approved. Makris and the Coast Guard Captain promptly threw our test data away.
6. We finally got our data to Makris' Office and he had Al Venosa (EPA -Cincinnati Lab) review our comments. Al's letter - we called the "Kiss of Death Letter" dated April 20, 2000, was filled with lies and he even recommended OSE II be removed from the NCP Product Schedule.

John Cunningham, EPA-Oil Program Manager told me no one could remove OSE II from the NCP Product Schedule. Within 2 months, he was gone.

7. June 19, 2001, Steve Pedigo and I met with Makris, Elaine Davies, David Lopez, Nick Nichols, Earl Salo and the NRT Executive Director, at the EPA Headquarters. Makris did not want to discuss Venosa's "Kiss of Death Letter" and particularly our seething response.

Makris agreed that we should move ahead in getting OSE II pre-approved for use on U. S. Waters.

We made the mistake of telling the EPA that OSE II had been successfully used at the Navy Fuel Farm in San Diego, California for 3 years.

Makris said we would all meet at the San Diego Fuel Farm to discuss their success with OSE II.

8. On December 7, 2001, we met with Nick Nichols, EPA - DC, Yvonne Adassi, Fish and Game, CA, Bill Robinson, EPA Region IX CA, OSHA Representative from Seattle, WA, the Coast Guard, Steve Fry's office (Navy Fuel Farm Manager). Nick Nichols first tried to hold an early a.m. meeting without Steve and I. When we found out - Elaine Davies forced Nick to have us at the meeting.
9. Nick presented us with the test requirements that Al Venosa had dreamed up **and tests not required by 40 CFR**. It was like a laboratory experiment and of course, Steve Fry did not have the data they requested.

What Steve Fry did tell the entire group was that he had used OSE II successfully for 3 1/2 years, cleaned up the fuel spills, with no adverse impact on the Eco System in the

San Diego Bay. He pointed out that he had Dolphins on one side of the fuel farm and whales on the other. Additionally, Steve had reduced his cleanup cost by 90%.

10. At this point - the Coast Guard Officer presented Steve Fry and the OSEI Corporation with a letter saying to cease and desist using OSE II or we would both be fined.
11. So - the only objective of the EPA on December 7, 2001 was to stop the successful use of OSE II - not to pre-approve OSE II.
12. The EPA's efforts to kill bioremediation continued. In February 2002, Al Venosa set up a "Kangaroo Court" (called his Scientific Panel) in DC, of the same people at the December 7, 2001 Meeting in San Diego, CA.

As a result of this meeting, David Lopez wrote us his "Letter of Lies" of June 20, 2002 said "OSE II does not biodegrade oil and we had to run the GC/MS test listed in 40 CFR or be removed from the NCP Product Schedule.

13. We have pointed out to the EPA they do not have the authority to remove us from the NCP Product Schedule since the Regulations, 40 CFR have not changed and neither has our OSE II Formula since being placed on the NCP LIST.

II. Proof that OSE II Works and should be pre-approved.

1. EPA/NETAC Ran the following Tier II Tests on OSE II:

- a. Respirometry Test - proving OSE II the best bioremediation product tested at degrading oil.
- b. Gravimetric Tests (Required by 40 CFR). To pass the test - must show greater than 5% degradation, OSE II showed 74.5% and 101% reduction against the control samples.
- c. Tier II Tests - GC/MS Test.
 1. EPA test showed a 98% reduction for light end oil and a 77% reduction for heavy end oil.
 2. NETAC Test showed a 64% reduction in light end oils and 59% reduction in heavy end oils.
- d. Gulf Breeze ran a toxicity test proving OSE II to be non-toxic.

2. Tier III Testing

- a. The Tier III Tests tested OSE II on the most sensitive ECO areas; beaches, marshes, estuaries and open water.
- b. Gulf Breeze Lab ran 7 different toxicity tests on OSE II which proved to be non-toxic
- c. The EPA/NETAC each ran successful - Tier III GC/MS tests on OSE II.

3. Cleanups in the field:

- Successfully cleaned up fuel spills in San Diego Bay at the Navy Fuel Farm for 3 1/2 years with no adverse effects on the environment and reduced cleanup cost 90%.
- Greenville Electric - Greenville, Texas - cleaned up a 1000- gallon diesel spill in a Creek.
- Texaco Crude Oil Spill on a 3- acre pond - 3000 gallons of crude oil.
- Recently - RRT approved OSE II's use on 3-1/2 year old crude oil spill on U. S. Navigable Waters. On November 21, 2003 OSE II was applied. In 2 weeks the diesel and gas - went from 11,000 ppm to non-detect. The heavy hydrocarbons reduced from 41,000 ppm to 25,000 ppm.
- Every day, military bases all over the world are using OSE II to cleanup fuel spills.

III. Proof of the EPA's Lies and Fraud

1. EPA's own successful test of OSE II proves they have been and are still lying and committing fraud concerning OSE II's ability to biodegrade oil.
2. The EPA's has been violating our rights under FOIA since they have not given us all the test information that we continue requesting through FOIA.
3. The EPA and NETAC - to date - have not given us all our Test Data. This stack of test data is only a portion of the tests the EPA & NETAC claimed they did not have for over 10 years.
4. The EPA had all these tests and more when they required us to re-apply for NCP Listing in 1996. Despite having 9 toxicity tests on OSE II, they forced us to spend \$4,000 to perform a "dispersant" toxicity test.

IV. SUMMARY

The real tragedy in this entire 13- year fiasco is that the EPA with NETAC and other EPA Laboratories have wasted millions and millions of tax payer dollars testing Bioremediation Products while at the same time has knowingly prevented any Bioremediation Product from being used on Navigable Waters.

The EPA's actions have caused thousands of spillers to be fined millions of dollars by the EPA not allowing the spillers to use the most effective procedures for cleaning up oil spills on U.S. Waters.

By so doing, the EPA has caused huge adverse impact on the Nation's Environment and Eco System; since booms, skimmers and absorbents can at best, only capture 20% of the spilled oil.

Compare that to the San Diego Fuel Farm, where OSE II cleaned up 100% of the spilled oil and reduced cleanup cost by 90%

The EPA, by their actions, has violated their **Charge** from the President to protect the environment and Natural Resources of the United States.

OSE II has been successfully used around the world for 14 years on water, soil, concrete and asphalt. With the EPA's own successful lab test and OSE II's successful cleanup of actual spills on land and U. S. Navigable Waters, **how can the EPA not pre-approve and why has the EPA not pre-approved OSE II's use on all spills on U. S. Navigable Waters?**

Therefore, we demand the following:

1. Have Dr. Berkey of NETAC, Al Venosa and all the EPA people involved in the oil program state in writing that OIL SPILL EATER II is an effective Bioremediation Product for oil spills and is EPA recommended for oil spills and other organic contaminants on all U. S. Navigable Waters.
2. Have the EPA direct the National Response Team (NRT) to advise all RRT regions and particularly the States, DOC, DOI, EPA and CG Representatives that OIL SPILL EATER II is an effective, first response tool and shall immediately be pre-approved and used on oil discharges or other organic contaminants on all U. S. Navigable Waters. (Don't let the EPA tell you this cannot be done. The NRT did it for Exxon's Correxite 9527, the most toxic Dispersant on the NCP and Correxite is being pre-approved and used in more and more Regions).
3. Agree in writing that the EPA and Al Venosa will never again try to illegally or by any other means attempt to remove OSE II from the NCP Product Schedule List.
4. Immediately send ALL - REPEAT ALL - of OSE II's Test Data, from Berkey's Testing, Al Venosa's Testing, Tier II and Tier III and all of OSE II'S Tier III Testing whether performed by Ed Berkey, Al Venosa or the EPA's Gulf Breeze Laboratory in Gulf Breeze, Florida.

5. As was agreed to on June 19, 2001, have Nick Nichols immediately publish on the EPA website, all of OSE II's correct and truthful test information, which we will now hand to Dave Evans.

Ms. Dietrich - we expect your "Yes" answer today!

Sincerely,

A handwritten signature in black ink, appearing to read "George", written over the printed name "O.A. (George) Lively".

O.A. (George) Lively
Rear Admiral (RET)
President/OSEI, Corporation